



CITY of BEVERLY

LICENSE BOARD

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Mayor

Michael P. Cahill

Chairman

Richard S. Kelley, Esq.

Board Members

John Roccio

Joseph Trainor

Clerk

Martha A. Lewis

LICENSE BOARD MINUTES – APRIL 3, 2014

The meeting of the Beverly License Board was called to order on Thursday, April 3, 2014 in the City Council Chambers at 6:30 pm.

In attendance at the meeting were: Board Members Richard Kelley, John Roccio, Joseph Trainor, Police Liaison Sgt. William Page and Clerk, Martha Lewis.

Meeting was called to order at 6:30 pm by Chairman Kelley.

1. Approval of the Minutes – Minutes of the meeting for March 6, 2014 were reviewed. Mr. Roccio made a motion to accept minutes as submitted. Mr. Trainor seconded the motion. Motion passed 3 – 0.
2. Invited-in: Vincent Orlando, owner/manager of Easystreet Operations, Inc. dba Jacobs Corner Pub.

Sgt. Page explained that Mr. Orlando was invited in following a police report that found Mr. Orlando, the bartender and Mr. Orlando's friends in the establishment long after closing hours. It was reported that Mr. Orlando was very intoxicated that evening.

Chairman Kelley asked Mr. Orlando if he had anything to say. Mr. Orlando stated that he had read the police report and took responsibility. He explained that he and some friends who were visiting from out of town had spent the evening in Boston. He stated that he stopped at Jacobs Corner to check on the closing of the bar as it had recently been broken into and he wanted to check the alarm system. He stated that there was no drinking going on. He further explained that they (he and his friends) were waiting for their ride home. He realizes the seriousness and stated that it would not happen again.

Chairman Kelley asked why the bartender was on premises that late? It was well after closing time.

Mr. Orlando stated that the bartender was cleaning and waiting for Mr. Orlando to check the alarm.

Chairman Kelley questioned Mr. Orlando as to why he came back to lock up while intoxicated.

Sgt. Page reported that the Beverly Police walked into the establishment after driving by a number of times. The door was unlocked. He further stated that the group appeared to be "hanging out" two hours after closing time.

Mr. Trainor asked what normal closing time was. Mr. Roccio stated that last call is at 12:45 am, all patrons are to be out by 1:00 am and drinks are to be cleared off the tables by 1:15 am. He commented to Mr. Orlando that his timetable was not believable. Chairman Kelley requested further clarification as to the day in question -- was it early morning on Friday, March 7 -- a Thursday night going into Friday morning? Mr. Orlando confirmed.

Sgt. Page commented that he still couldn't be sure that the group was not drinking. Drinks were on the counter behind the bar and some of the group were standing in front of the drinks. The bartender was wiping the counter, as if cleaning.

Chairman Kelley restated that the establishment was open at 3:00 am, the police were able to enter and made their observations over time, the bartender was still there. Again, the facts as don't add up, he did not believe that Mr. Orlando's story to be believable.

Sgt. Page addressed the Board and reported that based on the facts and the blatant violation, the Beverly Police Department is requesting a five-day suspension.

Chairman Kelley asked Mr. Orlando how long he had owned the establishment. Mr. Orlando responded since January 2013. He asked if there had been any other issues. Sgt. Page answered there was overcrowding on one occasion but no other problems. Chairman Kelley asked if anyone from the public wished to comment.

Mr. Roccio stated his concern about Mr. Orlando's condition and the time of the violation, several hours after closing. Chairman Kelley replied that the five days was the Beverly Police Department's recommendation; the Board is not obligated to punish. Mr. Roccio was inclined to treat the violation as a first time offense. Chairman Kelley suggested a three-day suspension as opposed to the five-day requested by the police department.

Mr. Trainor reiterated that the timeline presented by Mr. Orlando was not believable. It does not make sense for the bartender to be there until 3:00 am when closing was at 1:00 am. He believed it to be a serious offense and feels that the Board needs to act. He believes that five days is too long because it is a first offense.

Chairman Kelley said to Mr. Orlando that because he has owned the bar a relatively short period of time, it counts against him; he further stated that even had Mr. Orlando not been intoxicated, the onus and responsibility is on him. It is viewed as a serious offense and Chairman Kelley believes that three-day suspension was in order. Mr. Orlando can choose the dates to be served, they do not have to be consecutive but they do have to be served within a month of tonight's meeting.

Mr. Trainor suggested that the Board send a message to everyone, three consecutive days served within two weeks. Chairman Kelley replied that to impose three consecutive days would be too much, it is a tough business, want the entity to be penalized, not crippled. Mr. Roccio suggested to make one of the three days served to be a Thursday, Friday or Saturday. Further discussion ensued.

Chairman Kelley made a motion for a three-day suspension, dates to be determined by Mr. Orlando. Mr. Orlando was to notify the Board in writing of the dates chosen by Monday, April 7. Mr. Trainor seconded the motion. Motion passed 3 – 0.

Chairman Kelley instructed Mr. Orlando to turn in the license to the police department on each date to be served. He also told Mr. Orlando that he had the right to appeal to the ABCC, but he believed that the suspension would be upheld.

Editor's note: Mr. Orlando submitted the dates in writing to the Clerk. The Clerk informed Chief LeLacheur and Sgt. Page of the dates that the suspension would be served.

3. Application for Change of Manager – Bertucci's Restaurant Corp dba Bertucci's Ristorante, Veronica Pettingell, Manager

Ms. Pettingell introduced herself as the proposed manager. The Board reviewed her personal information form and manager application.

Chairman Kelley noted that she was the manager of a restaurant that had had a violation. Her further noted Ms. Pettingell's experience as a manager. He asked if everyone at Bertucci's was TIPS certified. Ms Pettingell explained that all staff are certified by Safe-Serve.

Chairman Kelley then asked the Board if they had further questions. Mr. Roccio asked how many years she had been in the business.

Clerk reported that the CORI came back with no issues.

Having no further questions or comments, Mr. Trainor made a motion to approve the change of manager to Veronica Pettingell. Mr. Roccio seconded. Motion passed 3 – 0.

4. One-Day Applications

Eight applications were received and reviewed. All were within the four-hour maximum time limit. The Clerk noted that the application for the artist's reception at the Beverly Farms Library was pending a waiver from the City Council of the ordinance regarding alcohol in a municipal building. Mr. Trainor made a motion to approve the eight applications, contingent upon the City Council's approval of the waiver. Mr. Roccio seconded the motion. Motion passed 3 – 0.

5. All Other Business:

Board discussed the available all alcohol license. Waiting for word from the City Solicitor as to when the license could be made available. Clerk informed the Board that

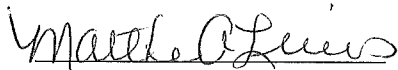
Atty. Alexander had resubmitted the application from Toscana's to convert from a seasonal license to an annual license. Clerk noted that the application was incomplete, waiting for two additional documents from Atty. Alexander. Also, the application was submitted after the publishing deadline for the legal notice.

Clerk also noted that the owner of Gourmet Paradise of Beverly dba the Gourmet Garden had called and stated he anticipated the opening of the restaurant in May. Clerk contacted the building inspector and confirmed that a building permit had been issued. Clerk to send owner a letter requesting status and time frame of when the restaurant would open and informing owner that if there are changes to the size/area of the restaurant than what was approved, an application for an alteration of license must be submitted before the restaurant will be allowed to open.

Hearing no further business, Mr. Roccio made a motion to adjourn the meeting. Mr. Trainor seconded the motion. Meeting adjourned at 7:20 pm.

Next meeting is scheduled for Thursday, May 8, 2014 at 6:30 pm in City Council Chambers, Third Floor, City Hall, 191 Cabot Street.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Martha A. Lewis".

Martha A. Lewis, Clerk